

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TONY S. BARNES,)	
)	
Plaintiff,)	Civil Action No. 15-134
)	Judge Kim R. Gibson
v.)	Chief Magistrate Judge Maureen P. Kelly
)	
PAMELA WERTZ, PRIME CARE)	
MEDICAL, INC., MARC T. MASUCCI,)	
MICHAEL T. JOHNSON, OFFICER URISH,)	Re: ECF No. 67
BLAIR COUNTY, BLAIR COUNTY)	
PRISON BOARD, JOHN DOES 1-3, and)	
JANE DOE,)	
)	
Defendants.)	

ORDER

AND NOW, this 28th day of November, 2016, after Plaintiff Tony S. Barnes, ("Plaintiff") filed an action in the above-captioned case, and after a Motion to Dismiss was filed by Defendants Michael T. Johnson, Officer Urish, Blair County and Blair County Prison Board, ECF No. 67, and after a Report and Recommendation was filed by the United States Magistrate Judge giving the parties until November 18, 2016, to file written objections thereto, and no Objections having been filed, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, ECF No. 84, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the Motion to Dismiss, ECF No. 67 is DENIED as to Count IV (Retaliation) against Officer Urish and GRANTED with respect to punitive damages against Michael T. Johnson and Officer Urish in their official capacities and granted without prejudice with respect to: (1) Count II (Deliberate Indifference) against Officer Urish; (2) Count III (Deliberate

Indifference) against Blair County and Blair County Prison Board; (3) Count IV (Retaliation) against Michael T. Johnson; (4) Count VI (Policy and Custom) against Blair County, Blair County Prison Board, Michael T. Johnson and Officer Urish.; (5) Count VII (Intentional Infliction of Emotional Distress) IT IS FURTHER ORDERED that Plaintiff be permitted to file, within twenty (20) days of the date of this Order, a Second Amended Complaint on the identified counts to specifically address the deficiencies identified herein.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court, at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.

By the Court:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

Kim R. Gibson
United States District Judge

cc: Honorable Maureen P. Kelly
Chief United States Magistrate Judge

Tony S. Barnes
2600 Southhampton Road
Philadelphia, PA 19116

All counsel of record via CM-ECF